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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1954

No. 116

LEO H. BOHLING,

Appellant,

vs.

EDWARD CORSI, COMMISSIONER, AND/OR DIVISION OF EMPLOYMENT OF THE DEPARTMENT OF LABOR OF THE STATE OF NEW YORK

APPEAL FROM THE COURT OF APPEALS OF THE STATE OF NEW YORK

STATEMENT AS TO JURISDICTION

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1954

No. 116

LEO H. BOHLING, RESIDING AT 1426 GOODRICH AVENUE, UTICA, NEW YORK,

Appellant,

vs.

EDWARD CORSI, COMMISSIONER, AND/OR DIVISION OF EMPLOYMENT OF THE DEPARTMENT OF LABOR OF THE STATE OF NEW YORK

STATEMENT AS TO JURISDICTION

To the Honorable Stanley Reed, Associate Justice of the Supreme Court of the United States:

Leo H. Bohling, Appellant in the above entitled case and Petitioner for the allowance of an Appeal to the Supreme Court of the United States from the final judgment of the Court of Appeals of New York in this cause, hereby respectfully presents a separate typewritten statement disclosing the basis upon which it is contended that the Supreme Court of the United States has jurisdiction upon appeal to review the judgment of the Court of Appeals of New York, said statement being filed pursuant to Rule 12 of the Supreme Court of the United States.

Statutory Provision Believed to Sustain Jurisdiction

1. Title 28, United States Code, Section 1257, Act of June 25, 1948, c. 646, 62 Stat. 929, 28 U. S. C. A. Section 1257, F. C. A. 28 Section 1257, provides as follows:

> "Final judgments or decrees rendered by the highest court of a state in which a decision could be had, may be reviewed by the Supreme Court as follows:
>
> (1) —.
>
> (2) By appeal, where is drawn in question the validity of a statute of any state on the grounds of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity."

Statute of the State of New York, the Validity of Which Is Involved

2. The Statute of the State of New York, the validity of which is involved in this cause, is the Unemployment Insurance Law 562, Subdivision 1, (Labor Law Article 18, 562, Subdivision 1) which reads as follows:

> "Section 562. Termination of Coverage.
>
> "1. Required coverage. Any employer who has become once liable for contributions under this article shall cease to be liable under the following conditions:
>
> "a. If he files a written application with the commissioner during the fourth calendar quarter, he may be released from coverage as of the first day of the next calendar quarter provided the commissioner finds that the employer has not employed four or more persons in employment within each of fifteen or more days in the completed calendar year in which the application is filed.
>
> "b. If he files a written application with the commissioner in any other calendar quarter of the year he may be released from coverage as of the first day

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of the calendar quarter following the filing of the application provided the commissioner finds the employer has, before such day, in neither the calendar year in which the application is filed nor in the preceding calendar year, employed four or more persons in employment within each of fifteen or more days."

Date of Judgment Sought To Be Reviewed, and Application for Appeal

3. The judgment sought to be reviewed was entered by the Court of Appeals of New York on March 4, 1954. The Remittitur of the Court of Appeals, the Order of the Supreme Court, County of Oneida, and the Judgment of the Supreme Court, County of Oneida, was entered in the Office of the Clerk of the Supreme Court, Oneida County, on March 22, 1954, and a copy, with notice of entry, was served on the appellant's attorney by mail, March 31, 1954.

The application for appeal to the Supreme Court was duly presented to the Honorable Edmund H. Lewis, Chief Judge of the Court of Appeals of New York, on March 30, 1954, and the said application was denied by said Chief Judge on April 17, 1954.

Statement of the Nature of the Case

4. On April 14, 1953, Petitioner filed a complaint against the Appellee in the above entitled case in the Supreme Court of New York, praying for judgment declaring the aforesaid statute to be unconstitutional, in-so-far as it precribed a tax for one full year after the petitioner's pay roll had dropped to less than four employees. The complaint averred that said statute is repugnant to the Constitution of the United States, as follows:

"Third: That said section 562 of the Labor Laws of New York State violates the Federal and State Constitutions, in-so-far as it sets up an arbitrary and

unreasonable classification for a tax; specifically, it compels all employers of three or less to pay a pay roll tax if they employed four persons in a previous year; and exempts from taxation those employers of three persons who have not employed more than three persons. That such a provision of law makes it difficult if not impossible for employers of the same class to compete with others in the same class; it denies an equal rate of taxation; and requires persons to pay a tax on income for a future period when there is no such income; and lastly, it creates a trap, by setting up a complicated system which employers would unwittingly transgress, by hiring extra help for a short time, and paying a pay roll tax for at least a year afterwards, if not two years. That said tax sets up no reasonable standard to distinquish liability from non-liability, and is in all respects unconstitutional."

5. The Defendants answered the complaint by pleading the constitutionality of the said statute, and moving for judgment on the pleadings, which was granted August 26, 1953, by the Supreme Court of the State of New York, held in and for the County of Oneida.

6. The opinion of the said Supreme Court, delivered by Mr. Justice E. Howard Ringrose, set forth each of the above stated contentions of the plaintiff-appellant, and concluded that these contentions were without merit, and that said law did not violate the United States Constitution.

7. The constitutionality of the above statute has been the sole issue in this case, and the decision of the Supreme Court of New York, Oneida County, was appealed directly to the Court of Appeals of New York, on the ground that the only question was the constitutionality of a statute, and the said Court of Appeals affirmed the judgment of the Court below.

8. The Court of Appeals of New York by its judgment entered March 4, 1954, expressly decided the question re-

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specting the validity of said statute, and held that it was not repugnant to the United States Constitution.

Authorities Believed to Sustain Jurisdiction

9. Petitioner cites *Connecticutt General Life Ins. Co.* v. *Johnson*, 303 U. S. 77, and *Standard Oil Co. of California* v. *Johnson*, 316 U. S. 481 as sustaining the jurisdiction of the Supreme Court of the United States upon appeal.

Authorities Showing Question Is Substantial

10. The appellant believes the issues in this case are substantial for the following reasons:

1. Forty-one states have similar provisions in their unemployment insurance laws, and none have been reviewed by the United States Supreme Court. New York State has recently adopted a similar tax measure in its Workman's Compensation Law, (Section 202) indicating that this means of taxation, and continuing liability for a year or more after the facts upon which liability is based have ceased to exist, may be greatly extended in the future. The fact that in the fifteen years history of this form of liability, no case has been taken to the United States Supreme Court, can be explained by the fact the measure only affects employers of less than four, who are unlikely to have the resources to support a constitutional test case.

2. The said tax is an innovation in American Tax Law, being the first instance that has come to our attention of liability being imposed because of a previous status of liability. When the facts establishing liability have ceased to exist, the tax liability is continued for the remainder of the year, and for an additional calendar year, before an application to terminate coverage and liability may be entertained. This tax is a departure from the time honored universal custom of determining a tax payer's liability for

a given tax according to his actual status during the period of taxation, without regard to previous status.

3. The tax is a hardship to small employers throughout the United States; it serves as a trap, and a hidden pitfall. Small employers are thereby required to pay a 2.7% tax on pay rolls from which tax others in the same business, location, and size pay roll, all similarly situated, are exempt—the sole distinction between those taxed and those not taxed being based on a past condition.

The Court below relied upon the case of *Carmichael* v. *Southern Coal & Coke*, 301 U. S. 495, at page 511, (See attached printed opinion of Mr. Justice Ringrose) which read:

> "Administrative convenience and expense in the collection or measurement of the tax are alone a sufficient justification for the difference between the treatment of small incomes or small tax payers and that meted out to others."

It is respectfully submitted that the above quoted decison was used to uphold taxing all employers of eight or more, and exempting those of under eight, on the theory that the cost of collection was comparatively prohibitive; but that the above quoted passage does not by implication justify a tax on some small employers, while leaving their competitors of the same sized pay roll, untaxed for one year.

It is further contended that the learned Court below failed to give proper importance to the final words of the Supreme Court on this subject, in the *Carmichael* case, at page 513.

> "In no case do appellees sustain the burden which rests upon them of showing that *there are no differences between the exempt employer and the industrial employers* who are to be taxed, sufficient to justify differences in taxation."

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We respectfully maintain that these words strongly suggest that the Supreme Court of the United States still feels that the Equal Protection Clause of the Fourteenth Amendment protects tax payers from taxes "where there are no differences between tax employers and exempt employers." The words "sufficient to justify differences in taxation" we respectfully assume to mean "differences that are substantial, and not trivial".

We would like to emphasize that the difference here can only be ascertained by going into the tax payer's past: that the use of this tax measure can only result in frightening employers away from hiring an additional employee for a few weeks, as it is gradually learned what dire penalties await the employer unfortunate enough to be caught in this pitfall; with a result that fewer, and not more employers will be crossing the line whereby their employees are covered by unemployment insurance.

We respectfully submit that the argument of "administrative convenience," (supra) has been used for the sole purpose of supporting a tax and justifying exemptions solely in circumstances where another method would result in great expense to collect a small return; it has never been employed to continue liability after the facts on which liability are based have ceased to exist, for some sociological purpose of the government without regard to the fact that the tax payer is unduly handicapped in relation to his competitors.

We further submit that the "Equal Protection" clause is not by definition or by judicial interpretation limited to a protection against inequality where the taxing power has an evil motive directed against the specific tax payer; but that there are instances wherein a seemingly impersonal rule of law operates with obvious injustice against tax payers in such a manner as to strike at their very livelihood.

This tax is assessed on a theory of presumed continuing liability. It is in sharp contrast to the Internal Revenue Code and other taxes which have at all times, at no small expense, aimed for fair play and equality for those in the same general situation. It goes further than any known federal or state tax, and specifically, the federal social security tax.

4. This case and the question presented is novel so far as the Supreme Court is concerned.

5. Since this case was decided by the New York Court of Appeals, New York State has passed legislation, to come into effect when Congress passes appropriate federal supporting legislation, prescribing this tax for all employers, regardless the size of this pay roll, indicating that the end of this issue is in sight, upon legislation being passed whereby all pay rolls are taxed, regardless of size; since in that case pay rolls will never drop below the size which distinguished taxability from non-taxability; that this proposed legislation indicates that this system of continuing liability has never been really necessary to a well thought out program of unemployment insurance; and that those who have been caught under an arbitrary tax for an extra year are entitled to some relief.

11. A copy of the only opinion filed in this case, namely that of Mr. Justice E. Howard Ringrose, is appended hereto.

Respectfully submitted,

Merwin K. Hart, Jr.,
Attorney for Appellant,
Office & P. O. Address,
196 Genesee St.,
Utica, New York.

April 27, 1954.

APPENDIX "A"

Opinion of Mr. Justice Ringrose

State of New York, Supreme Court
County of Oneida

[Same Title.]

Appearances:

Merwin K. Hart, Jr., Esq., Attorney for Plaintiff, 196 Genesee Street, Utica, New York.

Hon. Nathaniel L. Goldstein, Attorney General, Attorney for Defendants (Wendell P. Brown, Esq., and Francis R. Curran, Esq., of Counsel), Albany, New York.

Ringrose, J:

The plaintiff in this action seeks a judgment declaring unconstitutional the provisions of the Unemployment Insurance Law (Labor Law, Sec. 562) relating to the termination of the liability of an employer for the 2.7% pay roll tax. The legal conclusions alleged in the complaint are denied in the answer, and judgment declaring the challenged provisions constitutional is sought by the defendant. Both parties move for judgment on the pleadings.

The undisputed facts are: The plaintiff, a building contractor in the City of Utica, New York, employed four persons from April, 1947, to January, 1951. Sometime in the first quarter of the calendar year 1951, the number of the plaintiff's employees was reduced to less than four and he has employed less than four persons at all times since.

As the employer of four or more persons, the plaintiff was liable under the Unemployment Insurance Law (Labor Law Art. 18) for the 2.7% pay roll tax and remains liable even though the number of his employees are less than four, until such time as he is released from liability by the Commissioner of Labor. The

plaintiff has and is being assessed a pay roll tax at the specified rate, which will continue for a year or more after the date he ceased to employ four or more persons, and he is prohibited by the statute from denying his liability under said Labor Law, or terminating said tax liability, until he has paid a pay roll tax at the aforesaid rate for a period of at least one year after he ceased to employ four persons.

It appears from the complaint to be the contention of the plaintiff that the statute is discriminatory and therefore unconstitutional, in that it prescribes an arbitrary and unreasonable formula for determining the tax liability or non-liability as between employers employing three and those employing more than three persons, following a change in the status of an employer by the reduction of the number of his employees to less than four. Thus the issue is limited to the legality of the continuing liability for the tax following a change in status by a reduction in the number of employees. It is assumed in the absence of an allegation to the contrary that plaintiff never filed a written application with the Commissioner to be released from liability pursuant to Section 562 of the Labor Law.

The pertinent provisions of the Unemployment Insurance Law (Labor Law Sections 560 and 562) on this issue, are as follows:

"Sec. 560. Terms of coverage

"1. Liability. Any employer shall become liable for contributions under this article if he employs in all of his several places of employment in the state four or more persons in employment on fifteen or more days in any calendar year, except that persons employed in personal or domestic service in private homes shall be considered separately and that an employer shall become liable for contributions with respect to them only if he employs in such service four or more persons within the period and under the conditions above provided. Such liability for

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contributions shall commence on the first of such fifteen days of employment.

"An employer who, by operation of law, becomes successor to an employer liable for contributions shall become liable for contributions on the day of his succession. This provision shall not affect such successor's liability as otherwise prescribed by law for unpaid contributions due from his predecessor."

"Sec. 562. Termination of coverage

"1. Required coverage. Any employer who has once become liable for contributions under this article shall cease to be liable under the following conditions:

"a. If he files a written application with the commissioner during the fourth calendar quarter, he may be released from coverage as of the first day of the next calendar quarter provided the commissioner finds that the employer has not employed four or more persons in employment within each of fifteen or more days in the completed calendar year in which the application is filed.

"b. If he files a written application with the commissioner in any other calendar quarter of the year he may be released from coverage as of the first day of the calendar quarter following the filing of the application provided the commissioner finds the employer has, before such day, in neither the calendar year in which the application is filed nor in the preceding calendar year, employed four or more persons in employment within each of fifteen or more days."

Section 562 as originally enacted was contained in Section 502, subdivision 3 of the Labor Law, and read as follows:

"'Employer' means any persons, partnership, firm, association, public or private, domestic or foreign corporation, the legal representatives of a

deceased person, or the receiver, trustee or successor of a person, partnership, firm, association, public or private, domestic or foreign corporation (excluding the State of New York, municipal corporations and other governmental subdivisions), who or whose agent or predecessor in interest has employed at least four persons in any employment subject to this article within each of thirteen or more calendar weeks in the year nineteen hundred thirty-five or any subsequent calendar year shall make a newly-subject employer subject for all purposes as of January first of the calendar year in which such employment occurs * * *."

It was also therein provided:

"* * * Any employer subject to this article shall cease to be subject hereto only upon a written application by him and after a finding by the commissioner that he has not within any calendar week within the last completed calendar year employed four or more persons in employment subject thereto. Any employer (of any person within the state) not otherwise subject to this article shall become fully subject hereto, upon filing by such employer with the commissioner of his election to become fully subject hereto for not less than two calendar years, subject to written approval of such election by the commissioner."

It is the contention of the defendant that Section 562, Subdivision 1 of the Labor Law was designed to avoid inequitable treatment of employees entitled to benefits, which resulted from the procedure by which an employer's liability for the tax was terminated, and also to facilitate the administration of the law.

Under the present law (Labor Law, Sec. 527, L. 1951 Ch. 645, eff. June 4, 1951) an applicant for unemployment insurance must have had at least twenty weeks of employment in the fifty-two week period preceding the filing of his claim, and must have earned an average

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wage of at least $15.00 per week in at least twenty weeks of employment in such fifty-two week period. Prior to that time a claimant was required to have earned a certain amount of wages in covered employment during his "base year," which was the calendar year immediately preceding the beginning of a benefit year (L. 1944, Ch. 705). "Benefit year" was defined as the period from the first Monday falling in the month of June in each calendar year to and including Sunday which follows the last Monday falling in the month of May in the next calendar year (Labor Law, Secs. 520, 521 and 590, L. 1944, Ch. 705).

The reason for the enactment of present Section 562, Subdivision 1, and its predecessor, is thus self-evident. It avoids the situation of an employee being in covered employment for a portion of a "base year" and not for the entire year, which might reasonably occur where an employer subject to the tax reduces the number of his employees to less than four during the year and could terminate his liability at the end of that year instead of at the close of the next calendar year as provided under the present section. As suggested in the brief of the Attorney General, without the provisions of Section 562, Subdivision 1 "an employer who became subject to the law on July 1, 1952, by reason of having employed four or more persons within each of fifteen or more days commencing on that date, would be subject to the tax for the remainder of the year 1952, but if he did not employ four or more persons commencing on January 1, 1953, his employees might not be covered under the statute for several months during that year, until such time as the employer again employed four or more persons for the required period of time."

The foregoing illustration appears more visionary than real in view of the present minimum wage requirement necessary to qualify for unemployment insurance benefits (Labor Law, Sec. 527, L. 1951, Ch. 645), although the amount thereof might be less except for the amendment.

The question posed is whether the law provides a reasonable and rational basis of classification of employers subject to the tax where an employer ceases to employ four or more persons. This Court will be guided by the rule that "Court's of first instance should not exercise transcendent power of declaring an act of the Legislature unconstitutional except in rare cases involving life and liberty, and where invalidity of the act is apparent on its face." (McKinney's Statutes, 1953 Cum. Supp. Sec. 150, and authorities cited.)

The plaintiff concedes that the constitutionality of the Unemployment Insurance Law has been conclusively established as a reasonable exercise of the police power for the public welfare. (*Chamberlain, Inc., v. Andrews*, 271 N. Y. 1, 299 U. S. 515.)

The plaintiff maintains that the provision of the statute in question is, on its face, so arbitrary, unreasonable and oppressive that it denies to the plaintiff the equal protection of the law. The plaintiff relies upon the case of *Gulf, Colorado, and Santa Fe Railway Co. v. Ellis* (165 U. S. 150), as authority in support of his contention that the method of classification provided in the statute is discriminatory in operation and therefore unconstitutional. The rational of that decision on the question of classification was summarized by the Court as follows (p. 155): "That" (classification) "must always rest upon some difference which bears a reasonable and just relation to the act in respect to which the classification is proposed, and can never be made arbitrarily * * *."

The validity of a classification which imposes liability upon an employer of persons in excess of a designated number for a specified period, has been conclusively established. (*W. H. H. Chamberlain, Inc., v. Andrews*, 271 N. Y. 1, 299 U. S. 515; *Carmichael v. Southern Coal & Coke Co.*, 301 U. S. 495).

The section is not discriminatory on its face as it applies to all employers in a designated class. In *Carmichael v. Southern Coal & Coke Co.* (*supra*, p. 511) the Court said: "Administrative convenience and expense in the collection or measurement of the tax are

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alone a sufficient justification for the difference between the treatment of small incomes or small taxpayers and that meted out to others."

The statute meets the test of legality which was defined in *Lindsley v. Natural Carbonic Gas Co.* (220 U. S. 59 p. 79):

> "1. The equal protection clause of the 14th Amendment does not take from the state the power to classify in the adoption of the police laws, but admits of the exercise of a wide scope of discretion in that regard, and avoids what is done only when it is without any reasonable basis, and therefore is purely arbitrary. 2. A classification having some reasonable basis does not offend against that clause merely because it is not made with mathematical nicety, or because in practice it results in some inequality. 3. When the classification in such a law is called in question, if any state of facts reasonably can be conceived that would sustain it, the existence of that state of facts at the time the law was enacted must be assumed. 4. One who assails the classification in such a law must carry the burden of showing that it does not rest upon any reasonable basis, but is essentially arbitrary."

The final question to be considered relates to the continuance of the tax for the calendar year following that in which the number of persons employed is reduced to less than four.

Although the courts of this state have not passed upon this provision of the law, or at least no case has been called to my attention and my own research has produced none, similar provisions in the statutes of other states have been held constitutional. (*Maine v. Androscoggin Junior, Inc.*, 137 Me. 154, 16 A. 2d 252; *State v. Sosna*, 156 Kan. 722, 137 P. 2d 129; *Webb v. State*, Tex. Civ. App., 156 S. W. 2d 557; *Murphy v. Hurlbut Undertaking & Embalming Co.*, Supreme Court of Mo., Div. No. 1, 142 S. W. 2d 449.)

In *Webb v. State (supra)* an action was brought to recover unemployment compensation contributions due

for the year 1938. It was found that the employer became subject to the law in 1937 and paid the contributions for that year, and that he had filed no application for termination of coverage until March 1940. The employer contended that he ceased to be an employer under the law and was not liable for contributions for the year 1938 as he employed less than eight persons, which the statute designated as the classification subject to tax. He contended that continuation of liability was unconstitutional. The Supreme Court of Texas sustained the constitutionality of the provision and held that the provision for terminating coverage of an employing unit not employing eight or more individuals on any of twenty different days in different weeks during the calendar year preceding the employer's application for termination was not unconstitutional as making unreasonable and arbitrary classifications and exceptions.

Section 18, Subdivision II of the Statute of the State of Maine provides:

> "II. A. Except as otherwise provided in subsection III of this section an employing unit shall cease to be an employer subject to the provisions of this chapter as of the 1st day of January of any calendar year, only if it files with the commission, prior to the 20th day of January of such year, a written application for termination of coverage, and the commission finds that there were no 20 different days, each day being in a different week within the preceding calendar year, within which such employing unit employed 8 or more individuals in employment subject to the provisions of this chapter. For the purpose of this subsection, the two or more employing units mentioned in paragraph B or C or D of subsection IX of section 3 shall be treated as a single employing unit."

The employer in case of *Maine v. Androscoggin Junior, Inc. (supra)* became subject to the law in 1937 but during 1938 did not employ eight or more individuals. Liability for contributions for the year

1938 was denied by the employer and it contended that the requirement that a written application for termination of coverage be filed, was unconstitutional. In sustaining the constitutionality of the law, the Court said:

"The 1937 contribution, however, was paid. What is sought here from the company is payment for 1938, during which year it was not an employer under the rule of eight. For 1938 it can be held to contribute only if by operation of the law it was then an employer. The plaintiff says it was, because of Sec. 8 (b), which provides a right for the company before a certain date to file a written application for termination of coverage, which it failed to do. Failure so to do continued its status as an employer under the Act for 1938, although that year it did not actually employ the required eight either alone or jointly with Mr. Healy in his operation of the senior camp.

"This carry-over provision of said Sec. 8 (b) we consider reasonable and proper. It is somewhat analogous to the statutory duty placed upon inhabitants to make and bring in true and perfect lists of their taxable estates else be barred from making application to the assessors or county commissioners for abatement of taxes. Sec. 70 Chap. 13, R. S. 1930, as amended by Pub. Laws 1933, c. 180. Considering the beneficial effect of this carry-over provision in simplifying and lessening the work of the commission without unduly burdening the employer and at the same time giving it full protection, we hold that the statute is reasonable and unobjectionable."

The Kansas statute contains a similar provision. *State v. Sosna (supra)* was an action for the collection of contributions from an employer for the years, 1938, 1939 and 1940. The employer became subject to the law in 1938. He did not have the requisite number of employees to impose liability for the years 1939 to 1940. On April 18th, 1941 he filed an application for termination of coverage which was approved on

June 11th, 1941. The employer admitted his liability for contributions for 1938 and contended that the provisions of the statute requiring the filing of an application to avoid liability for 1939 and 1940 was unconstitutional. The Supreme Court of Kansas held that the original statute was reasonable and not unduly burdensome to the employer, and held that the statute was not unconstitutional.

Lastly, I am of the opinion that the constitutionality of the statute assailed by the plaintiff may be sustained on the ground of administrative convenience and necessity alone. The requirement that a written application must be made before an employer is released from liability, and a finding that he had not employed four or more persons during the calendar year preceding the application, is a reasonable requirement and conducive to the efficient administration of the law. It is conceivable that without this provision of the law many applications for unemployment insurance would have to await an investigation as to the qualification of the applicant. This would be an unwarranted hardship in view of the distress and immediate need which the law was designed to alleviate as appears from the statement of the public policy of the State as set forth in Section 501 of the Labor of Law. The provisions of the law apply to all employers within the specified class and do not impose an onerous burden on the privilege of employment. Moreover, the ultimate cost generally is borne by the consumer which includes those for whose benefit the law was enacted.

The defendant's motion for judgment on the pleadings, therefore, is granted, and the motion of the plaintiff denied.

Judgment accordingly.

Dated: Rome, New York, August 12th, 1953.

STATE OF NEW YORK,
Oneida County Clerk's Office, ss.: